

**REMARKS**

This paper is filed in response to the non-final office action dated December 19, 2008. In that office action, claims 1-8 are rejected as being indefinite and as being unpatentable over a combination of the prior art. In light of the foregoing amendments and following remarks, applicants respectfully submit that pending claims 1-8 are in condition for allowance and respectfully solicit same.

**Claim Rejections – 35 U.S.C. §112**

In the office action, claims 1-8 stand rejected as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. More specifically, the Examiner rejects each of claims 1-8 for not ending with a period. In response, applicants have amended each of claims 1-8 to include a period at the end of each sentence. As the pending claims are now in proper form, applicants respectfully submit that the indefinite rejection of claims 1-8 must be withdrawn.

**Claim Rejections – 35 U.S.C. §103**

In the office action, claims 1-8 stand rejected as being obvious over U.S. Patent Application No. 2006/0131253 (“Richardson”) in view of U.S. Patent No. 4,121,720 (“Hayes”). At the outset, applicants respectfully submit that Richardson is not prior art to the present application and therefore cannot be cited against the present application as such. According to 35 U.S.C. §119(a)-(b), “[a]n application for patent for an invention filed in this country by any person who has, or whose legal representatives or assigns have, previously regularly filed an application for a patent for the same invention in a foreign country which affords similar privileges in the case of applications filed in the United States or to citizens of the United States, or in a WTO member country, shall have the same effect as the same application would have if filed in this country on the date on which the application for patent for the same invention was first filed in such foreign country, if” (i) “the application in this country is filed within twelve months from the earliest date on which such foreign application was filed;” (ii) “a claim is filed in the Patent and Trademark Office, identifying the foreign application by specifying the application number on that foreign application, the intellectual property authority or country in or for which the application was filed, and the date of filing the application, at such time during the pendency of the application;” and (iii) “a certified

copy of the original foreign application, specification, and drawings upon which it is based, [and] a translation if not in the English language” is filed.

Applicants respectfully submit that the present application properly claims priority to International Application No. PCT/FR2005/000733, which further claims the benefits of the earlier filed French Application No. FR0403309. In particular, International Application No. PCT/FR2005/000733 was filed on March 25, 2005, which is (i) within twelve months from the earliest date on which the French Application No. FR0403309 was filed, March 30, 2004. Additionally, (ii) a declaration claiming priority benefits of International Application No. PCT/FR2005/000733 and French Application No. FR0403309 was filed on May 9, 2007. Finally, (iii) a certified copy of the original foreign application, specification, drawings as well as a translation of same was submitted to the U.S. Patent and Trademark Office on September 26, 2006. As the priority date of the present application, March 30, 2004, predates that of the Richardson reference, December 22, 2004, applicants respectfully submit that Richardson is not prior art to the present application. At least for the reasons specified above, the obviousness rejection of pending claims 1-8 based in part on Richardson must fail and should be withdrawn.

In light of the foregoing, applicants additionally submit that four of the references made of record but not relied upon by the Examiner are not prior art to the present application. More specifically, the priority date of the present application, March 30, 2004, predates those of U.S. Patent No. 7,255,313 (“Lane”), U.S. Patent Application No. 2008/0173325 (“McGarry”), and U.S. Patent Application No. 2005/0236349 (“Lagman”). Applicants further note that among the references listed in the Notice of References Cited, U.S. Patent Application No. 2007/0138117 (“Slimane”), is in fact the publication of the present application under examination, and therefore, should not be cited as prior art.

Furthermore, the obviousness rejection of claims 1-8 must fail because no combination of the prior art teaches all of the limitations of the pending claims. To support an obviousness rejection, MPEP §2143.03 requires “all words of a claim to be considered” and MPEP §2141.02 requires consideration of the “[claimed] invention and prior art as a whole.” Further, the Board of Patent Appeals and Interferences recently confirmed that a proper, post-KSR obviousness determination still requires the Office to make “a searching

comparison of the claimed invention – including all its limitations – with the teaching of the prior art.” *See, In re Wada and Murphy*, Appeal 2007-3733, citing *In re Ochiai*, 71 F.3d 1565, 1572 (Fed. Cir. 1995). As previously discussed, Richardson is not prior art to this application, learning only Hayes as valid prior art. However, Hayes fails to disclose or suggest all claim elements and thus the obviousness rejection must fail.

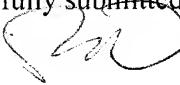
Hayes discloses an apparatus for displaying jewelry which is suspended on a bracket by a chain. The Examiner relies upon Hayes to supply mounting means for suspending a display fixture from a ceiling. However, Hayes fails to teach or suggest a counter display for displaying articles such as perfumes or cosmetic products, as specified in each of the pending claims. Specifically, Hayes fails to disclose a counter display having a display element to which articles may be attached. Hayes also lacks a counter display with a connecting element having an upper end designed to be pivotally mounted to a ceiling, as specified in the claims. In contrast, the chain of Hayes does not enable any such pivoting movement. Additionally, the apparatus of Hayes fails to teach or suggest a mirror attached to a connecting element suspending the display element, wherein the mirror is arranged such that a person standing in front of the display element can observe his/her image in the mirror. As no combination of Richardson and Hayes teaches or suggests all of the limitations of the pending claims, the obviousness rejection of claims 1-8 based on Richardson and Hayes must fail and should be withdrawn.

### **CONCLUSION**

In light of the foregoing, applicants respectfully submit that each of the currently pending claims, i.e. claims 1-8, are in condition for allowance and respectfully solicit the same. If a telephone call would expedite prosecution of the subject application, the Examiner is invited to call the undersigned agent. The undersigned verifies that he is authorized to act on behalf of the assignee of the present application.

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Respectfully submitted,

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